

ASSEMBLY BILL NO 529 (TORRICO)

Mortgage Rate Re-set Notifications

PROBLEM

At the end of last year, nearly 20 percent of all subprime loans were delinquent. And amazingly, these numbers may still rise as many of these borrowers have loans with low "teaser rates" that will readjust upward over the next two years. Unfortunately, many of these homeowners who defaulted or may be in jeopardy of defaulting have claimed they were either:

- 1) Unaware that the interest rate will reset or that the minimum payment for their loan would change,
- 2) Did not know how much this change with their loan would actually increase their payments,
- 3) Or, at the very least, did not know there may be other options available that could help them avoid the impacts of the minimum payment requirement change or interest rate readjustment.

Absent any action, we can only assume that this problem will continue to persist.

It should be noted that federal law does provide for some notification. Federal Regulation Z, 12 CFR 226.20 (c) requires lenders to notify borrowers "at least 25, but no more than 120, calendar days before payment at a new level is due." However, this notification only informs the borrower that their payment and interest rate is about to increase...it does not require any additional information which could actually be used to help the borrower work out the conditions of their loan and prevent the borrower from potential default. Additionally, this federal

notification could be as late as a month before the loan is about to reset which does not give the borrower much time to prepare or explore other options to avoid the payment increase. Other notifications...in addition to this one...should exist to further help the borrower.

It is also important to note that this federal notification is only required when there is a rate adjustment...not when the loan itself resets from non-amortized to fully amortized despite there being an increase in payment.

Home foreclosures are not good for the borrower, the lender, or anyone who owns a home. While there are currently numerous proposals being examined to help stop the bleeding in the housing market and prevent it from happening again, lenders – at the very least - should enable the borrower to prepare for changes in the loan and given the ability to seek out other options to help avoid default.

EXISTING LAW

Federal Regulation Z, 12 CFR 226.20 (c) requires lenders to provide certain information to borrowers about their adjustable rate loan before it adjusts "at least 25, but no more than 120, calendar days before payment at a new level is due."

SUMMARY

In addition to the requirement under federal law, AB 529 requires that borrowers be notified between 120 and 90 days from a change of payment at least the following:

1. The borrower's current monthly payment if the loan is currently fixed and then becomes adjustable or current minimum payment if it is based on a loan that is currently nonamortized but will become fully amortized.
2. The month and year in which the loan payment will change.
3. An example of the monthly payment if the interest rate adjusted at the time of the notification or when the loan goes from nonamortized to fully amortized.
4. Whether or not the monthly payment will include taxes and insurance.
5. A telephone number the borrower may contact for additional information.
6. A statement that tells them that the actual payment information will be provided at least 25 days prior to the loan reset.

CA Financial Services Association
CA Independent Bankers
CA Mortgage Bankers Association

FOR MORE INFORMATION

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STATUS

Senate Banking, Finance, and Insurance
Committee – June 18, 2008 Hearing

SUPPORT

Greenlining Institute
Center for Responsible Lending
Consumer's Union
AFSCME

OPPOSITION

CBA
Chamber of Commerce